



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,711	07/12/2001	Kunihiko Fukui	0505-841P	1542
2292	7590	03/12/2009		
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				EXAMINER GOINS, DAVEITA WOODS
		ART UNIT 2612		PAPER NUMBER
		NOTIFICATION DATE 03/12/2009		DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte:* KUNIHIKO FUKUI

---

Application No. 09/902,711  
Technology Center 2600

---

Mailed: March 12, 2009

---

Before TOI JOHNSON *Review Paralegal*  
JOHNSON, *Review Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 24, 2006. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, HEADINGS

A review of the file indicates that the Appeal Brief filed August 18, 2003 does not comply with 37 CFR § 1.192 because it does not contain the “Real party in interest” and “Related appeals and interferences” headings as required.

A substitute brief that is in compliance with either 37 CFR § 1.192 or 37 CFR § 41.37(c) is required. *See also Manual of Patent Examining Procedure (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for 37 CFR § 41.37(c) rules.*

Appropriate correction is required.

EXAMINER'S ANSWER, HEADINGS

A review of the file indicates that the Examiner's Answer filed March 7, 2006 does not comply with the guidelines provided in MPEP § 1207.02 because it does not contain the “Related appeals and interferences” and “Related Proceeding Appendix” headings as required.

Appropriate correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed August 18, 2003 defective as required by 37 CFR § 41.37(d);
- 2) notify the Appellant to submit a “paper” which corrects the missing headings under 37 CFR §41.37(c)(1)(v);
- 3) acknowledge and consider any “paper” submitted by Appellant to correct the Appeal Brief;
- 4) generate a PTOL-90 that includes the missing Examiner’s Answer headings as noted above; and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747